

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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HARRY G. SCHMIDT, JR.,

Petitioner,  
v.

STATE OF WISCONSIN,

Respondent.

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ORDER

Case No. 16-cv-31-wmc

Petitioner Harry G. Schmidt, Jr. seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner requests leave to proceed without prepayment of the filing fee. Petitioner has supported this request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from petitioner's trust fund account statement, I find that petitioner is able to pay the filing fee. Accordingly, I will deny petitioner's application for leave to proceed without prepayment of the filing fee. To proceed further on this habeas petition, petitioner must pay the \$5 filing fee. If petitioner fails to pay the fee by February 5, 2016, the petition will be dismissed for failure to prosecute.

ORDER

IT IS ORDERED that:

1. Petitioner Harry G. Schmidt, Jr.'s motion for leave to proceed without prepayment of the filing fee is DENIED. Petitioner has until February 5, 2016 in which to pay the \$5 filing fee.

2. If by February 5, 2016 petitioner fails to submit the \$5 filing fee, I will assume that petitioner wishes to withdraw this action voluntarily and will dismiss the petition without further notice for failure to prosecute.

Entered this 19th day of January, 2016.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge